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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Virgil E. Stanley III

Serial Number: 10/797,490

Filed: 10 March 2004

Title: **Artificial Christmas Tree**

Attorney's Docket No: 4486-096

Patent Pending

Group Art Unit: 1743

Cary, North Carolina
30 September 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL UNDER RULE 1.102(d)

Applicant hereby petitions that the above reference patent application be granted special status pursuant to 37 C.F.R. 1.102(d) and Section 708.02 of the MPEP. A Preliminary Amendment accompanies this Petition. Applicant consents to the special examination procedure set forth in Section 708.02 of the MPEP. In support of this petition, Applicant submits the Declaration of Larry L. Coats and the fees set forth in 37 C.F.R. §1.17(h). Applicant will make an election without traverse if the Patent office should determine that a restriction requirement should be made. Accordingly, Applicant requests that this Petition to Make Special be granted and that the application undergo accelerated examination.


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130.00 OP

Enclosed herewith is a check in the amount of \$130.00. If any additional fees are required, the Patent Office is authorized to charge our firm's deposit account, 18-1167.

Respectfully submitted,


Larry L. Coats
Registration No. 25,620

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE WITH SUFFICIENT POSTAGE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: **COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450.**

ON: _____

Kathleen Koppen

SIGNATURE: _____

9/30/04

[illegible]

Patent Pending

Group Art Unit: 1743

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Raleigh, North Carolina
30 September 2004

Declaration of Larry L. Coats

2. The present invention entails an artificial tree. The artificial tree of the present invention includes a hollow trunk, a plurality of tree branches adapted to extend from the hollow trunk, and a fragrance source associated with the artificial tree. A fan moves air across the fragrance source to combine the air

with the fragrance and to move the scented air through at least a portion of the hollow trunk. In some embodiments, the scented air exits the hollow trunk via openings in the trunk to permeate the air around the tree with the scented air. In other embodiments, the scented air may also move through at least a portion of the branches and exit the tree via holes in the branches to permeate the air around the tree with the scented air.

3. To assist the patentability of the claims in the accompanying application, a thorough and careful search was conducted in the United States Patent and Trademark Office online database in class 428, subclass 18, and in class 362, subclass 123. In addition, a title search and document search was performed based on the following words and phrases: artificial tree, Christmas tree, fragrance, and (odor or smell or scent). Our firm conducted this search.

4. The pre-examination search uncovered the following patents, copies of which are attached hereto.

Inventor	Title	Patent No.	Issue Date
Wilcox, II	Folding Artificial Christmas Tree	5,342,661	8-30-1994
Davis et al.	Artificial Christmas Tree with Scent, Sound and Visual Elements Incorporated Therein	5,455,750	10-3-1995
Williams	Artificial Tree	3,544,783	12-1-1970
Brown, III	Fragrant Thermoplastic Snow and Method of Manufacture	6,566,416	5-20-2003

5. U.S. Patent No. 5,342,661 relates to a folding artificial tree. An extension tube supported by a base forms the trunk of the tree. A plurality of branch rods, each including a matrix of bristles, mounts to the extension tube

using a bracket mounting apparatus. The folding artificial tree may optionally include an aerosol scent dispenser that directs scent through the base and extension tube. The scent is dispersed to the air surrounding the tree via mesh webs disposed along the extension tube. Note, however, that the '661 patent does not disclose a fan. As such, the '661 patent fails to disclose using a fan to move air across a fragrance source to combine the fragrance with the air and to move the combined fragrance and air through at least a portion of a hollow trunk. Further, the '661 patent does not disclose moving the scented air out the branches.

6. U.S. Patent No. 5,455,750 relates to an artificial Christmas tree that includes scent, sound, and visual elements. The artificial Christmas tree includes a trunk and branches that extend from the trunk. An inner portion of the trunk includes wires to carry electricity to various electrical elements associated with the tree. A scent-producing element is positioned at or near the bottom of the trunk and includes a container and a heater. The scent-producing element may be a continuous part of the trunk (see Figure 10A) or it may be separately attached to the trunk (see Figure 10B). The container holds scent-producing material, such as incense. Holes in the lid of the container permit the scent to escape when the heater applies heat to the scent-producing material. Note, however, that the '750 patent does not include a fan and does not teach dispersing the scent using a fan. Further, the scent is emitted from the container of the scent-producing element into the air surrounding the tree. The '750 patent does not teach moving the scented air through at least a portion of the trunk.

7. U.S. Patent No. 3,544,783 relates to an artificial tree. The artificial tree is comprised of a base element and an essentially conical, hollow, vertically sectionalized tree body, where the bottom of each tree body section matches the top portion of the tree body section disposed below. The base element of the artificial tree may include an opening that houses a perforated container (see Figure 2) that contains aromatic substances. Aroma emitted by the aromatic substances permeates the air surrounding the artificial tree. Note, however, that the tree of the '783 patent does not include a hollow trunk or a series of branches adapted to extend from the trunk. Further, the '783 patent does not include any type of dispersing means, such as a fan, to disperse the scented air. Further still, the '783 patent does not move the scented air through at least a portion of a trunk.

8. U.S. Patent No. 6,566,416 relates to fragrant thermoplastic snow. The snow may be used to accentuate holiday décor and to create winter scenes while simultaneously providing pleasing aromatic effects. While the thermoplastic snow may be applied to an artificial tree, the '416 patent does not teach using a fan to disperse the scented air. Further, the '416 patent does not teach moving the scented air through at least a portion of a hollow trunk of an artificial tree.

9. I declare that all statements made herein of my own personal knowledge are true and all statements, made on information and belief, are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by

fine and imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referred to patent application or any patents issuing therefrom.

9/30/04
Date


Larry L. Coats